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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,052	12/19/2000	Bruce Perlmutter	10360-079001/13361HUUS01U	4810

34645 7590 06/14/2007  
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CARLISLE, MA 01741

EXAMINER
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DUONG, DUC T

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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06/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

09/740,052

**Applicant(s)**

PERLMUTTER ET AL.

**Examiner**

Duc T. Duong

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 3-10, and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al (U.S. Patent 5,953,338) in view of Shah et al (US Patent 6,678,835 B1).

Regarding to claims 1 and 10, Ma discloses a system for managing bandwidth of a remote link in a virtual private network VPN 170 (Fig. 1) comprising a server 160 (Fig. 2 col. 7 lines 5-14), a contention pool 401 or 402 having a portion of the bandwidth for at least one application group (Fig. 4A col. 11 lines 11-26), and a meter 145 for metering the packets belonging to the application group (col. 7 lines 20-38).

Ma fails to teach for the server is virtual private network VPN server configured to at least one authenticate, encapsulate, and de-encapsulate at least a portion of the packets.

However, Shah discloses a data communication system comprising a VPN policy server 122 configured for authentication, encryption, and compression of packets (Fig. 1-2 col. 6 lines 13-32).

Thus, it would have been obvious to a person of ordinary skill in the art to employ the policy server 122 with VPN processing as taught by Shah in Ma's server 160. The

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motivation to do so would have been to enhance the Ma's server functionality by providing authentication, encryption, and compression to packets so that a higher level of security and quality of services can be achieved.

Regarding to claims 3 and 12, Ma discloses all the limitation with respect to claims 1 and 10 including the server is directly connected to other links 302 having larger bandwidth than the available bandwidth of the remote links 310-316 (Fig. 3 col. 9 lines 1-13).

Regarding to claims 4 and 13, Ma discloses the packets belonging to the application group (virtual path) share a pre-defined configuration (quality of service), and see col. 10 line 67 and col. 11 lines 1-2.

Regarding to claims 5 and 14, Ma discloses all the limitation with respect to claims 1 and 10 including the packets belonging to the application group contend equally for the portion of the bandwidth (Fig. 6 col. 11 lines 60-63).

Regarding to claims 6 and 15, Ma discloses the meter manages flow rate of the packets going through the server in either direction (Fig. 1B col. 6 lines 5-19).

Regarding to claims 7 and 16, Ma discloses the meter rejects the packets if the flow rate exceeds the assigned portion of the bandwidth (col. 8 lines 1-12).

Regarding to claims 8 and 17, Ma discloses all the limitation with respect to claims 1 and 10 including a user interface (client) that allows a user to specify the bandwidth of the link (Fig. 6 col. 9 lines 25-32).

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Regarding to claims 9 and 18, Ma discloses all the limitation with respect to claims 1 and 10 including a user interface (client) that allows a user to specify the assigned portion of the bandwidth (Fig. 6 col. 11 lines 66-67 and col. 8 lines 1-18).

### ***Response to Arguments***

3. Applicant's arguments filed March 22, 2007 have been fully considered but they are not persuasive. In response to applicant's argument that the VPN policy server 122 of Shah is not **configured** to handle packets, the examiner would like to point out the claimed limitation "the VPN server is **configured** at least one of authenticate, encapsulate, and de-encapsulate at least a portion of the packets" does not necessarily mean the VPN server itself performs the tasks of authenticate or encapsulate. Thus, giving the broadest interpretation the VPN policy server 122 of Shah **configured** the policy objects 222 for handling packets for which is implement with the policy enforcer 124. Therefore, the VPN policy server 122 of Shah does indeed is **configured** to handle packets via the policy enforcer 124. Based on the reasons set forth here the rejections are maintained.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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DD



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